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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-533-880]

### Polytetrafluoroethylene Resin from India: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

DATES: Applicable October 18, 2017.

FOR FURTHER INFORMATION CONTACT: Toby Vandall at (202) 482-1664 or Aimee Phelan at (202) 482-0697, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

### SUPPLEMENTARY INFORMATION:

#### The Petition

On September 28, 2017, the U.S. Department of Commerce (the Department) received a countervailing duty (CVD) Petition concerning imports of polytetrafluoroethylene (PTFE) resin from India, filed in proper form on behalf of the Chemours Company FC LLC (the petitioner).<sup>1</sup> The CVD Petition was accompanied by antidumping duty (AD) Petitions concerning imports of PTFE resin from India and the People's Republic of China. The petitioner is a domestic producer of PTFE resin.<sup>2</sup>

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<sup>1</sup> See Letter from the petitioner, "Re: Polytetrafluoroethylene (PTFE) Resin from the People's Republic of China and India: Antidumping and Countervailing Duty Petitions" (September 28, 2017) (the Petition).

<sup>2</sup> *Id.* at 2.

On October 3, 2017, the Department requested supplemental information pertaining to certain areas of the Petition.<sup>3</sup> The petitioner filed a response to this request on October 6, 2017.<sup>4</sup> In addition, the petitioner filed revised scope language on October 13, 2017.<sup>5</sup>

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of India is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to imports of PTFE resin from India and that such imports are materially injuring, or threatening material injury to, the domestic industry producing PTFE resin in the United States. Also, consistent with section 702(b)(1) of the Act, for those alleged programs on which we are initiating a CVD investigation, the Petition is accompanied by information reasonably available to the petitioner supporting its allegations.

The Department finds that the petitioner is an interested party as defined in section 771(9)(C) of the Act and that the petitioner filed this Petition on behalf of the domestic industry and demonstrated sufficient industry support with respect to the initiation of the CVD investigation that the petitioner is requesting.<sup>6</sup>

#### Period of Investigation

Because the Petition was filed on September 28, 2017, the period of investigation (POI) is January 1, 2016, through December 31, 2016.

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<sup>3</sup> See Letter from the Department, “Petition for the Imposition of Countervailing Duties on Imports of Polytetrafluoroethylene Resin from India: Supplemental Questions” (October 3, 2017).

<sup>4</sup> See Letter from the petitioner, “Polytetrafluoroethylene (PTFE) Resin from India: Responses to Supplemental Questions Regarding the Countervailing Duty Petition” (October 6, 2017).

<sup>5</sup> See Letter from the petitioner, “Polytetrafluoroethylene (PTFE) Resin from the People’s Republic of China and India: Amendment to the Suggested Scope of the Antidumping and Countervailing Duty Petitions” (October 13, 2017).

<sup>6</sup> See “Determination of Industry Support for the Petition” section, below.

### Scope of the Investigation

The product covered by this investigation is PTFE resin from India. For a full description of the scope of this investigation, *see* the “Scope of the Investigation,” in the Appendix to this notice.

### Comments on Scope of the Investigation

During our review of the Petition, the Department issued questions to, and received a response from, the petitioner pertaining to the proposed scope to ensure that the scope language in the Petition would be an accurate reflection of the products for which the domestic industry is seeking relief.<sup>7</sup>

As discussed in the preamble to the Department’s regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).<sup>8</sup> The Department will consider all comments received from interested parties and, if necessary, will consult with the interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,<sup>9</sup> all such factual information should be limited to public information. To facilitate preparation of its questionnaires, the Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Time (ET) on Tuesday, November 7, 2017, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Friday, November 17, 2017, which is 10 calendar days from the initial comments deadline.

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<sup>7</sup> *See* Letter from the petitioner, “Polytetrafluoroethylene (PTFE) Resin from the People’s Republic of China and India: Amendment to the Suggested Scope of the Antidumping and Countervailing Duty Petitions” (October 13, 2017). *See also* Memorandum to the File (October 11, 2017).

<sup>8</sup> *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>9</sup> *See* 19 CFR 351.102(b)(21) (defining “factual information”).

The Department requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must be filed on the records of each of the concurrent AD and CVD investigations.

### Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).<sup>10</sup> An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

### Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, the Department notified representatives of the Government of India of the receipt of the Petition, and provided them the

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<sup>10</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011), see also *Enforcement and Compliance: Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx>, and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

opportunity for consultations with respect to the CVD Petition.<sup>11</sup> Consultations with the GOI were held at the Department of Commerce on October 18, 2017.<sup>12</sup>

#### Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC

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<sup>11</sup> See Letter to the Embassy of India, “Countervailing Duty Petition on Polytetrafluoroethylene Resin from India” (September 28, 2017).

<sup>12</sup> See Memorandum, “Consultations with Officials from the Government of India Regarding the Countervailing Duty Petition on Polytetrafluoroethylene (PTFE) Resin from India” (October 18, 2017).

must apply the same statutory definition regarding the domestic like product,<sup>13</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>14</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of this investigation. Based on our analysis of the information submitted on the record, we have determined that PTFE resin, as defined in the scope, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.<sup>15</sup>

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in the Appendix to this notice. The

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<sup>13</sup> See section 771(10) of the Act.

<sup>14</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

<sup>15</sup> For a discussion of the domestic like product analysis in this case, see Countervailing Duty Investigation Initiation Checklist Polytetrafluoroethylene (PTFE) Resin from India (India CVD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Polytetrafluoroethylene (PTFE) Resin from the People's Republic of China and India (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

petitioner provided its own production of the domestic like product in 2016, as well as estimated 2016 production data of the domestic like product by the entire U.S. industry.<sup>16</sup> To establish industry support, the petitioner compared its production to the total 2016 production of the domestic like product for the entire domestic industry.<sup>17</sup> We relied on the data the petitioner provided for purposes of measuring industry support.<sup>18</sup>

Our review of the data provided in the Petition and other information readily available to the Department indicates that the petitioner has established industry support.<sup>19</sup> First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).<sup>20</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.<sup>21</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.<sup>22</sup> Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

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<sup>16</sup> See Petition at 2-4 and Exhibit I-2; *see also* General Issues and AD Supplement at 3-4.

<sup>17</sup> See Petition at Exhibit I-2; *see also* General Issues and AD Supplement at 3-4.

<sup>18</sup> *Id.* For further discussion, *see* India CVD Initiation Checklist at Attachment II.

<sup>19</sup> See India CVD Initiation Checklist at Attachment II.

<sup>20</sup> See section 702(c)(4)(D) of the Act; *see also* India CVD Initiation Checklist at Attachment II.

<sup>21</sup> See India CVD Initiation Checklist at Attachment II.

<sup>22</sup> *Id.*

The Department finds that the petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department initiate.<sup>23</sup>

### Injury Test

Because India is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from India materially injure, or threaten material injury to, a U.S. industry.

### Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise, which are benefitting from countervailable subsidies. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>24</sup> In CVD petitions, section 771(24)(B) of the Act provides that imports of subject merchandise from developing and least developed countries must exceed the negligibility threshold of four percent. The petitioner also demonstrates that subject imports from India, which has been designated as a least developed country under section 771(36)(B) of the Act, exceed the negligibility threshold of four percent.<sup>25</sup>

The petitioner contends that the industry’s injured condition is illustrated by a significant volume of subject imports; an increase in the volume of subject imports relative to U.S.

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<sup>23</sup> *Id.*

<sup>24</sup> *See* Volume I of the Petitions at 21 and Exhibit I-14.

<sup>25</sup> *Id.*



consumption and production; reduced market share; underselling and price suppression or depression; lost sales and revenues; a negative impact on the domestic industry's capacity, capacity utilization, and employment; and a negative impact on revenues and operating profits.<sup>26</sup>

We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.<sup>27</sup>

#### Initiation of CVD Investigation

Based on the examination of the CVD Petition, we find that the Petition meets the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of PTFE resin from India benefit from countervailable subsidies conferred by the government of this country. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we intend to make our preliminary determination no later than 65 days after the date of this initiation.

Under the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD laws were made.<sup>28</sup> The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the

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<sup>26</sup> *Id.* at 24-34, Exhibit I-8, and Exhibits I-14, I-16, and I-17.

<sup>27</sup> See India CVD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Polytetrafluoroethylene Resin (PTFE Resin) from India and the People's Republic of China (the PRC) (Attachment III).

<sup>28</sup> See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

ITC.<sup>29</sup> The amendments to sections 776 and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this CVD investigation.<sup>30</sup>

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on 18 of the 22 alleged programs in India. For a full discussion of the basis for our decision on whether to initiate on each program, *see* the India CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

#### Respondent Selection

The petitioner named seven companies in India as producers/exporters of PTFE resin.<sup>31</sup> For India, following standard practice in CVD investigations, in the event the Department determines that the number of producers/exporters is large, the Department intends to review U.S. Customs and Border Protection (CBP) data for U.S. imports of PTFE resin during the POI under the appropriate Harmonized Tariff Schedule of the United States subheadings, and if it determines it cannot individually examine each company based upon the Department's resources, then the Department will select respondents based on that data.

On October 12, 2017, the Department released CBP data under the Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment regarding the CBP data and respondent selection must

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<sup>29</sup> *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*). The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

<sup>30</sup> *See Applicability Notice*, 80 FR at 46794-95.

<sup>31</sup> *See* Petition at Exhibit I-13.

do so within three business days of the publication date of the notice of initiation of this CVD investigation.<sup>32</sup> Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.505(b). Instructions for filing such applications may be found on the Department's website at <http://enforcement.trade.gov/apo>. The Department will not accept rebuttal comments regarding the CBP data or respondent selection.

Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the date noted above. If respondent selection is necessary, within 20 days of publication of this notice, we intend to make our decision regarding respondent selection based upon comments received from interested parties and our analysis of the record information.

#### Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the Government of India *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

#### ITC Notification

We will notify the ITC of our initiation, as required by section 702(d) of the Act.

#### Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition were filed, whether there is a reasonable indication that imports of PTFE resin from India is materially injuring, or threatening material injury to, a U.S. industry.<sup>33</sup> A negative ITC

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<sup>32</sup> See Memorandum, "Polytetrafluoroethylene (PTFE) Resin from India Countervailing Duty Petition: Release of U.S. Customs and Border Protection Data" (October 12, 2017).

<sup>33</sup> See section 703(a)(2) of the Act.

determination will result in the investigation being terminated.<sup>34</sup> Otherwise, this investigation will proceed according to statutory and regulatory time limits.

#### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). 19 CFR 351.301(b) requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted<sup>35</sup> and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.<sup>36</sup> Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

#### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under 19 CFR 351.301 expires. For submissions that are due from multiple parties simultaneously, an

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<sup>34</sup> See section 703(a)(1) of the Act.

<sup>35</sup> See 19 CFR 351.301(b).

<sup>36</sup> See 19 CFR 351.301(b)(2).

extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this investigation.

#### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>37</sup> Parties must use the certification formats provided in 19 CFR 351.303(g).<sup>38</sup> The Department intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

#### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that

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<sup>37</sup> See section 782(b) of the Act.

<sup>38</sup> See also *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (“*Final Rule*”). Answers to frequently asked questions regarding the *Final Rule* are available at [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act.

Gary Taverman  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance

Dated: October 18, 2017.

## **Appendix**

### **Scope of the Investigation**

The product covered by this investigation is polytetrafluoroethylene (PTFE) resin, including but not limited to granular, dispersion, or coagulated dispersion (also known as fine powder). PTFE is covered by the scope of this investigation whether filled or unfilled, whether or not modified, and whether or not containing co-polymer additives, pigments, or other materials. Also included is PTFE wet raw polymer. The chemical formula for PTFE is C<sub>2</sub>F<sub>4</sub>, and the Chemical Abstracts Service Registry number is 9002-84-0.

PTFE further processed into micropowder, having particle size typically ranging from 1 to 25 microns, and a melt-flow rate no less than 0.1 gram/10 minutes, is excluded from the scope of this investigation.

PTFE is classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 3904.61.0010 and 3904.61.0090. Subject merchandise may also be classified under HTSUS subheading 3904.69.5000. Although the HTSUS subheadings and CAS Number are provided for convenience and Customs purposes, the written description of the scope is dispositive.

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